

Investigation Report

File No.	ACMA2023/498
Carriage Service Provider	Teleforce Pty Ltd trading as Urban Telecom
ACN	129 658 895
Relevant Legislation	<i>Telecommunications Consumer Protections Code C628:2019</i>

Findings

The Australian Communications and Media Authority (**ACMA**) finds that Teleforce Pty Ltd (ACN 129 658 895) trading as Urban Telecom (**Urban Telecom**) has contravened the following clauses of the Telecommunications Consumer Protections Code C628:2019 (the **TCP Code**):

- Clause 4.5.1(c) – failed to ensure that its sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner between 11 November 2019 and 17 August 2022.
- Clause 9.7.1(b) – failed on 3 occasions to create and retain auditable records establishing that transfers to Urban Telecom were undertaken in accordance with Chapter 9 of the TCP Code between 21 November 2019 and 15 September 2022.

Background

1. This report sets out the findings of an investigation conducted by the ACMA into whether Urban Telecom contravened the responsible selling and customer transfer record keeping requirements in the TCP Code.
2. The investigation follows the Telecommunications Industry Ombudsman (**TIO**) notifying the ACMA on 31 August 2023 of concerns it had with Urban Telecom's selling and customer transfer practices.
3. On 27 October 2023, the ACMA gave Urban Telecom a notice under subsection 521(2) of the Act (**the Notice**), requiring Urban Telecom to provide information and documents relating to the selling and transfer of 7 telecommunication services to Urban Telecom. The account holders of these 7 services had lodged complaints with the TIO about Urban Telecom. Urban Telecom responded to the Notice on 10 November 2023.
4. The TCP Code is registered under Part 6 of the Act and sets out rules that apply to all carriage service providers (**CSPs**) that supply telecommunications services to residential and small business consumers.
5. On 7 December 2023, the ACMA provided its preliminary findings report to Urban Telecom and invited it to respond. On 12 December 2023, Urban Telecom responded by providing the ACMA with an undated Customer Authority Form (**CAF**) for one of the 7 account holders.
6. Urban Telecom sells mobile, landline and internet services to small and medium business consumers. It is therefore a CSP within the meaning of section 87 of the *Telecommunications Act 1997* and a supplier for the purposes of the TCP Code.

7. In the course of the investigation, the ACMA has examined information provided by:
 - (a) the TIO
 - (b) Urban Telecom.

Findings and reasons

8. Having assessed the evidence and information before it, the ACMA finds that Urban Telecom contravened clauses 4.5.1(c) and 9.7.1(b) of the TCP Code. Details of the contraventions are set out below.

Clause 4.5.1 Responsible approach to selling

9. Clause 4.5.1 of the TCP Code requires suppliers to ensure their sales representatives:
 - (a) promote and sell Telecommunications Products¹ in a fair, transparent, responsible and accurate manner to assist consumers in making informed purchasing decisions; and
 - (b) clearly explain the key terms, conditions and costs of the Telecommunications Products consumers are purchasing.
10. To enable this outcome, suppliers must take particular actions, including ensuring that the supplier's sales representatives are appropriately trained to promote and sell in a fair, transparent, responsible and accurate manner (clause 4.5.1(c)).
11. The ACMA considers that to comply with clause 4.5.1, suppliers need to ensure that all of their sales representatives, prior to selling, offering to sell, or otherwise promoting the supplier's telecommunications products, have successfully completed training in how to sell telecommunications products in a fair, transparent, responsible and accurate manner to consumers, including to consumers who are disadvantaged and/or vulnerable.
12. In the Notice, Urban Telecom was requested to provide a detailed description and supporting documentation of any training delivered to its sales representatives and how Urban Telecom monitored the conduct of its sales representatives. The ACMA sought this information as 6 of the 7 TIO complaints the ACMA reviewed claimed that Urban Telecom had not accurately represented itself when promoting the transfer.
13. In response, Urban Telecom advised that the sales were conducted in person so there were no sales recording and the sales representative for the 7 telecommunication services set out in the Notice had 18 years of experience in a telecommunications sales role. Urban Telecom did not provide training dates or training materials used by Urban Telecom to ensure that its sales representatives have completed training in how to sell telecommunications products in a fair, transparent, responsible and accurate manner to consumers.
14. For the above reasons, the ACMA finds that Urban Telecom had not appropriately trained its sales representatives during the period 11 November 2019 and 17 August 2022 to promote and sell in a fair, transparent, responsible and accurate manner, as required by clause 4.5.1(c) of the TCP Code.

Clause 9.7 Records regarding transfers

15. Clause 9.7 requires a Gaining Supplier to keep records to enable a consumer to verify that the transfer process was undertaken in accordance with Chapter 9 of the TCP Code. Specifically, clause 9.7.1 states:

¹ Telecommunications Product means Telecommunications Goods and/or a Telecommunications Service (see section 2 of the TCP Code).

The Gaining Supplier must create, and retain for a minimum of 2 years after the completion of the transfer or as required by law, auditable records establishing that:

(a) **Authorisation:** the person who authorised the transfer advised the Gaining Supplier that they were authorised to do so; and

(b) **Compliance with requirements:** the transfer was undertaken and advised to the customer in accordance with this chapter.

16. The ACMA sought all documents from Urban Telecom that related to the transfer of the telecommunication service to Urban Telecom for 7 customers who made complaints to the TIO identified in the Notice, including all documents evidencing each customer's consent to the Transfer.
17. In 2 cases (Account Holders 1 and 5), Urban Telecom disputed that the transfer took place. We accept Urban Telecom's statements in relation to these 2 cases.
18. Urban Telecom failed to provide auditable records that the transfer was undertaken in accordance with Chapter 9 for 3 customers (Account Holders 2, 4 and 6). In these 3 cases, Urban Telecom did not dispute that the transfer took place but did not produce a valid record of consent. For Account Holders 2 and 4, Urban Telecom provided undated copies of the CAF, and for Account Holder 6 Urban Telecom did not provide a copy of the CAF. Urban Telecom uses a CAF to obtain consent from its customers to the transfer of their existing services. Urban Telecom did not advise that it intentionally destroyed any of its CAF after 2 years.
19. Therefore, the ACMA finds that Urban Telecom did not comply with clause 9.7.1(b) of the TCP Code on 3 occasions, as Urban Telecom failed to keep auditable records for a minimum of 2 years that would enable a customer to verify that the transfer process was undertaken in accordance with Chapter 9 of the TCP Code. The contraventions occurred between 21 November 2019 and 15 September 2022.

Dated 15 January 2024